

**CHARLOTTE COUNTY PLANNING AND ZONING BOARD  
REGULAR MEETING**

**Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida**

**Board Members**

Michael Gravesen, Chair  
Paul Bigness, Vice-Chair  
Stephen Vieira, Secretary  
Don McCormick  
Kenneth Chandler



**District**

District V  
District III  
District I  
District II  
District IV

**MINUTES  
REGULAR MEETING**

***July 13, 2020 at 1:30 P.M.***

**Call to Order**

Chair Gravesen called the meeting to order at 1:30 pm

**Roll Call**

Upon the roll being called it was determined a quorum was present.

**Approval of Minutes – June 8, 2020 Regular Meeting**

The June 8, 2020 minutes were approved as circulated.

**Announcements**

The oath was provided by Recording Secretary Bennett for those wishing to provide testimony.

**PETITIONS**

**PD-20-00003**

**Quasi-judicial**

**Commission District II**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Agriculture (AG) to Planned Development (PD) for completion of the existing mine and a reservoir use in the existing lake area; for property located north of the Lee County Line, south of Zemel Road, east of Tamiami Trail (US 41) and west of I-75, in the South County area, containing 1,203.84± acres; Petition No. PD-20-00003; Applicant: Richard Neslund, Neslund Family Ltd. Partnership II; providing an effective date.

**Jie Shao, Planner, Principal**, provided the findings and analysis for Petition **PD-20-00003** with a recommendation of approval with Conditions, based on the reasons stated in the staff report.

**Chair Gravesen** stated they accept Ms. Shao as an expert witness.

**Questions for Staff**

**Mr. Vieira** asked when the subject property was before us the last time, and the devolvement was approved by the Board of County Commissioners, was there an agreement that was in place that the City of Cape Coral or Lee County was going to provide portable water to that site?

**Ms. Shao** answered yes, Lee County has an agreement for that, but that is all for the Residential Development the rule coming to Mix Use, not at this time.

**Mr. Vieira** asked the water coming now from this location to Lee County, is Lee County going to pay for any kind of infrastructure that would be required to transport that water, or would that be a manual transportation that will be done, do we know?

**Ms. Shao** answered she only knows the uses. This PD rezoning will allow them to use that as a reservoir to store the water and they have the State permits to allow them to send the water to City of Cape Coral Irrigation System during the dry season.

**Mr. Vieira** stated the method of transportation still has to be worked out for the water transfer?

**Ms. Shao** answered yes.

**Applicant's Presentation**

**Rob Berntsson, Esq., BIGW Law, on behalf of the applicant**, mentions he also had Mr. Delissi and Mr. Bayne with him if they need to answer any questions. Gave a brief past history for this petition. They are interested in getting approval of the PD so that they could designate this as a reservoir to provide water. This water would go to the City of Cape Coral to augment their canal system and fire fighting abilities to avoid emergencies during the dry season. The overall plan includes Residential Development and Commercial activity. That is not being approved with this application. This application is to solely designate the completion of the excavation mine and then there after the reservoir use. We will come back to this Board in the future when we have the development plans for the site. He discussed more permits and procedures they will go through.

**Mr. Gravesen** asked is it the historical sheet flow for our water from this property down to Cape Coral? Is that the way the sheet flow flows, if 41 wasn't there?

**Mr. Bayne, P.E., South West Engineering**, explains the direction of the sheet flow. States there is so much water in Babcock Web that it's damaging the natural vegetation of the web. They are trying to get a designated flow way that the City of Cape Coral and the Charlotte Wet flatwoods could both benefit from.

**Public Input**

**James Dorsey, who lives in the area**, asked are they saying the sheet flow is what's going to the reservoir? Because the reservoir is a project from the mining operation.

**Mr. Gravesen** states the sheet flow without the road ways and railroad it would have just flowed the natural flow of water during the raining season. It's kind of the natural flow of the water, they are just enhancing it after we have dammed it up with I-75, the railroad right of way, and US-41.

**James Dorsey**, is this sheet flow created by storm drainage or is this water that the mine has dug from where I see the mine, it's all diked, the sheet flow can't flow into it?

**Frank Jones, who lives in the area**, asked is the zoning going to affect his property that is zoned Agricultural, is this going to change my zoning in any way? He also asked about the access road, is the road going to be a dedicated road or apart of the zoning?

**Carl Bolling, who lives in the area**, wanted clarification on the exact location of where the reservoir will be. He also inquired on the preserved area, he wanted to know if it was going to be given to the State or was it going to be held privately in reserve? His concerns are that they are going to make it a private park and it won't actually be public lands. If they are going to restore it and its public lands, it should be given to the public, not held in private. He also asked if Cape Coral is going to provide city water for that section of property and the area below it, and will it include sewage?



**Kim Height, who lives in the area**, is concerned about her property from flooding. She would like to know what they are going to do to protect the area from flooding.

**Michael Banino, who lives in the area**, mentions they need to install ditches. Wants to know if they have any solutions to be able to take the water and move it down? Wants to know what are there plans to re-route the watering with your sheet flow?

- **Mr. Bigness** moved to close the public hearing, second by **Mr. McCormick**; with a unanimous vote.

**Rebuttal**

**Dan Delissi** said when I was the chief of staff at South Florida Water Management, I was hands on with Charlotte Harbor flatwoods initiative, to partnership between both the SW Florida Water Management and South Florida Water Management. What Gary was talking about with the sheet flow, that was a longer term plan. Eventual ideas to get more water out of Cecil Webb, and it's not through sheet flowing it, because you have I-75 that acts like a damn, it would be actually a point in I-75 where you have a culvert, and FL Fish and wildlife conservation commission would put in the additional infrastructure to flow it, but it looks like as the water would flow right now, it would be on the southside of the property. There is a lot more infrastructure that would need to be put in to this reservoir to contain the water, so you did not have offsite impacts. Then the water would go along US 41 to Cape Coral. All we are talking about today is not doing all that infrastructure, it's the water in the reservoir from rain, we want to discharge water, not bring more water onto the site. From a flooding standpoint, that has zero impact on the surrounding properties. It could have a positive impact. We are only asking to be able to send water off the property down into the City of Cape Coral for fire protection and landscaping irrigation.

**Mr. Berntsson** said just to address a few comments, this will not effect any one else's zoning, it is only for our property. In our application for the mixed use rural community, we indicated that we may get water and sewer from Lee County where we may do an onsite package plant. That won't be known until we actually go in to develop the site. There is no plan to bring city water from the City of Cape Coral. We have permits to excavate the property, that has no effect on completing the excavation.

**Mr. Bigness** asked for clarification, the reservoir you have that you created, is that from berming and diking off Marion Ave., you're dewatering the excavation so you can get lower on the excavation site, so that water is the water on hand that is being put into the ditches, flowing to Cape Coral, is that correct?

**Mr. Baynes** said that is not totally correct, any dewatering efforts that associated mine, cannot be discharged down the US 41 ditches. That is part of the excavation. What we are sending are cells that have been excavated, the infrastructure has been reclaimed and the cells are just sitting there. That is the water that is part of our NPDS permit, that is allowed to be discharged.

**Mr. Vieira** said is recharge occurring on that site? Is that what keeps the level up?

**Mr. Baynes** said yes, when we pump about 2 months out of the year, we notice about a 7 to 8 foot drop in the elevation. It is part of the pilot program we are working towards. The pilot program is what type of impact will it have on the environment and what can the surrounding areas handle. We won't see a drop more than 10 feet in this reservoir.

**Mr. McCormick** said the entire property is in Charlotte County, does Charlotte Utility have any impact on your area, or would not be part of any further development?

**Mr. Berntsson** said no, not at this time. There is no infrastructure at our property.

**Mr. Gravesen** said, addressing the zoning, this is a PD, and there are only two uses in this application that can occur, the continuation of the mining and then a reservoir. For them to do any residential or commercial, they have to come back in and re-designate this as a different PD and go through the whole process again.

**Mr. Berntsson** said he agrees.

#### **Recommendation**

**Mr. McCormick** moved that **PD-20-00003** be sent to the Board of County Commissioners with a recommendation of Approval with the conditions as outlined in the staff report, based on the findings and analysis in the staff report dated June 23, 2020, with conditions A through E, along with the evidence presented at today's meeting, second by **Mr. Vieira**; and carried by a unanimous vote.

The following two items are unified, they will be heard together and motions will be separate.

#### **PA-19-08-17**

#### **Legislative**

#### **Commission District I**

Pursuant to Section 163.3184(3), Florida Statutes, adopt a Small Scale Plan Amendment to change Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Low Density Residential (LDR) to High Density Residential (HDR), increasing density from 37 units to 112 units; for property located at 24258 Harborview Road and 4088 Oakview Drive, in the Port Charlotte area, containing 7.48± acres; Commission District I; Petition No. PA-19-08-17; applicant: P. F. Poinciana LLC; providing an effective date.

#### **PD-20-00002**

#### **Quasi-Judicial**

#### **Commission District I**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Multifamily 5 (RMF-5) to Planned Development (PD), increasing density from 37 units to 112 units, for property located at 24258 Harborview Road and 4088 Oakview Drive, in the Port Charlotte area, containing 7.48± acres; Commission District I; Petition No. PD-20-00002; applicant: P. F. Poinciana LLC; providing an effective date.

**Matt Trepal, Planner Principal**, requested he be accepted provided the findings and analysis for **Petition PA-19-08-17 and PD-20-00003** with a recommendation of approval with Conditions "a through j", based on the reasons stated in the staff report.

**Chair Gravesen** stated they accept Mr. Trepal as an expert witness.

#### **Questions for Staff**

**Mr. Vieira** asked in the first paragraph in the background summary, capacity of sanitary sewer system, they handle the additional load, have we in fact, determined that there is suspicion sanitary sewer to handle the development?

**Mr. Trepal** said the sewer utility in that case is Charlotte County Utilities, and they have indicated they have adequate capacity.

#### **Applicant's Presentation**

**Geri Waksler, Esq., McCorry Law Firm, on behalf of the client**, said several months ago, you recommended approval of the FLUM amendment and a rezoning to RMF-15 for this site. The BCC wanted to see how this High Density project would look on the site. They did not know if it would actually fit the number of units, parking, and stormwater management, so the applicant resubmitted this as a Planned Development (PD). This allows you to see how this site is proposed. It is a great site for apartment housing with the proximity of I-75 and US 41. This request is consistent with the zonings in the surrounding area. She discussed the uplands and what would be



there and the other part of the site and what would be on that site around the lake. She said the neighbors would like condos, but apartments are badly needed in Charlotte County.

**Public Input**

**Thomas Workman, who was sworn in**, said they show this site plan and with the landing of the road and how the buildings are set, (all 3 buildings set up against Talalake, the lake) there is no buffer included. He assumes the buildings are in the back, so they do not have to widen Harborview Road. The condos are all 2 stories. The property is within 1200 feet of the special requirements for the Peace River, and the new FEMA maps are not coming out yet and they may effect the evacuation route to that area. Affordable housing has to be within walking distance to services. There are no sidewalks on Harborview Blvd. There is a fire station 2.6 miles, library 3.4 miles, Bayfront Health 2 miles, Charlotte Harbor school 1.52 miles, Peace River Elementary 1.74 miles, Middle school 2.7 miles and high school about 3 miles. They list one of the facilities as a park, but that park only has parking for one or two cars. I am not against apartments, but where can these people go for groceries, etc. There is nothing within walking distance. For them to say this fits that area, I don't feel it does. He said it is unfair to the County and the neighborhood.

**Judy McGlinchy, Board member for Talalakes condominiums**, said she was sworn in. She said she moved here in 2002 and was delighted to find Talakes condominium. Now the plan being devised will disturb our low density property. This plan does not mirror property by any stretch. This plan will more than double the units and parking we have, on less than half the property. She is against this request.

**Nancy Plimal, who was sworn in**, said she is also a Board director for Talalakes. I am a former planning supervisor for development in Columbus Ohio and I researched Southern Florida before purchasing here. The site plan you showed, showing the surrounding properties is a good map to look at. I do not care what is put on it as long as it is at low density. Most permitting around here are for single family. This spot zoning does not maintain the character of this neighborhood. We have a lawyer not just for Talalakes, but for all the surrounding properties.

**Phil Huttle, who was sworn in**, said he lives in River Club. I bought there over a year ago, primarily because it was a low density area. He talked about Vision 2050, and the County entered into an agreement with the citizens in that plan. I know there is environmental sensitivity of this area because we are close to the harbor. I am concerned most of this was cleared when less residents were around to see it and there was bush and trees on the outer perimeter so you could not see what they were doing. Gopher Tortoises are there all the time. There was an eagle's nest on that property and it was destroyed. He would like to see low density maintained on this site. This will bring more traffic.

**Jack Koolat, who was sworn in**, and lives across the street in the River Club area. He did not want to live near a high density area. He said the master plan says it is a low density area. The developer wants to enrich himself having more density at the expense of the neighborhood. Vision 2050 was developed by the citizens and documents the citizens vision. If this master plan is the vision of the people, why are we even discussing the possibility of altering that vision. There is high density in the plan in other areas. For the developer to change this area, it is for monetary reasons only. He discussed the Sunseekers resort and all the traffic changes in the area.

**Rita Mueller, who lives in the area and was sworn in**, said when she bought a few years ago, the vacant property next to it was for sale. I inquired and was told Charlotte County had it zoned low density and the Comp Plan also called for this. No worries. Now I worry. The applicant bought 7.5 acres for \$300,000 knowing it is low density. The change is for profit. The P&Z Board should represent the citizens. There are many reasons why this application should be denied. Traffic is a problem now and high density will make it worse.

- **Mr. McCormick** moved to close the public hearing, second by **Mr. Bigness**; with a unanimous vote.

**Rebuttal**

**Ms. Waksler** said I am not sure why or how in Charlotte County multi-family development, when it is not condominiums is automatically assumed to be affordable housing. The fact of the matter is we have very few apartments in Charlotte County. Most of the apartment are at market rate that have been going up. You had a crowd before you a few years back when we did the Springs which is on Kings Highway and Veterans Blvd. They said this could not fit in with single family and traffic problems. The Springs are in and at capacity, a light went in at the corner of Loveland and Peachland. An additional turn lane was put in from Veterans to Kings Highway, traffic is not fantastic but it's not the horror we expected. This goes back for years. The reality is high density means different things in other communities. Other areas have 50, 60, 100 units per acre. Just to the east is one RMF-15, to the SE – MHP, that is developed with many manufactured homes and mobile homes at a density of over 13 units per acre. You have high density residential all around this property. The buildings are in the back by the lake, because people like to live by the lake. The County has a process where you can change the zoning on property. The site plan shows all of this can be accomplished.

**Mr. Vieira** asked if there is any indication that the site has been cleared?

**Mr. Trepal** said I don't have that information with me but I can look that up and see if they applied for permits to clear.

**Mr. Vieira** said there was a statement that because of the widening of Harborview Road, it will reduce the site capacity by 1.5 acres. Has FDOT released the placement of the widening?

**Mr. Trepal** said to my knowledge, the FDOT has not issued a final right of way plan for the widening of Harborview Road. They have not yet determined that it is appropriate to widen the road in the first place. There is a no build option, in which the road would not be widened.

**Mr. Vieira** asked in the end, this is not going to be a deed ownership property, it will be a rental property. Is there any component that this would be an affordable housing?

**Mr. Trepal** said there is nothing presented by the applicant that indicated it would be affordable housing.

There was some discussion about high density residential with a few other projects.

**Recommendation**

**Mr. Vieira** moved that **PA-19-08-17** be sent to the Board of County Commissioners with a recommendation of Approval as outlined in the staff report, based on the findings and analysis in the staff report dated April 30, 2020, along with the evidence presented at today's meeting, second by **Mr. McCormick**; and carried by a 3 to 1 vote. (Mr. Bigness voted against this request)

**Mr. Vieira** moved that **PD-20-00002** be sent to the Board of County Commissioners with a recommendation of Approval with the conditions "a through j" as outlined in the staff report, based on the findings and analysis in the staff report dated April 30, 2020, along with the evidence presented at today's meeting, second by **Mr. McCormick**; and carried by a 3 to 1 vote. (Mr. Bigness voted against this request)

**ADJOURNMENT**

The meeting was adjourned at 3:15 p.m.

Accepted on behalf of the Charlotte County  
Planning and Zoning Board



Michael Gravesen, Chair